

**MINUTES OF THE MARCH 2010 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held on Monday, March 8, 2010, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative Marcella Frevert, Chair, and Senator Wally Horn, Vice Chair; Senators Merlin Bartz, Thomas Courtney, John P. Kibbie, and James Seymour; Representatives David Heaton, Tyler Olson, Nathan Reichert, and Linda Upmeyer were present.

Also present: Joseph A. Royce and Michael Duster, Legal Counsel; Kathleen K. West, Administrative Code Editor; James Larew, Administrative Rules Coordinator; fiscal staff; caucus staff; and other interested parties.

Convened Rep. Frevert convened the meeting at 10 a.m.

Fiscal overview Deb Kozel presented the LSA fiscal report. Sen. Bartz requested a specific citation to the federal requirement that DHS allow an applicant 90 days of Medicaid eligibility while awaiting documentation of citizenship; and Rep. Heaton asked if the estimated fiscal impact of \$2.9 million was included in the department’s budget request.

TRANSPORTATION DEPARTMENT Mark Lowe represented the department.

ARC 8514B No action on amendments to implement the REAL ID driver’s license. Mr. Lowe reported that Iowa has been deemed to be in material compliance with the federal guidelines.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Margaret Thomson represented the department.

ARC 8523B Ms. Thomson reported that proposed 45.19 pertains to nonchemical pest control devices and provided an example of a device that plugs into an electrical outlet. Discussion pertained to potential dangers and adverse health effects of pest infestations and the authority of the department to regulate pesticides.

AGING, DEPARTMENT ON Lisa Burk represented the department.

ARC 8553B No questions on ch 15, elder abuse prevention initiative and dependent adult abuse mandatory reporter training. Ms. Burk outlined changes made as a result of public comment.

EDUCATION DEPARTMENT Carol Greta represented the department.

ARC 8509B Proposed amendments to ch 83 require multiple forms of evidence of student performance data in the evaluation of teachers. Ms. Greta offered to provide the committee with a link to the guidance provided to districts in regard to acceptable measures of student performance that may be used in addition to the ITBS and ITED. Ms. Greta agreed to provide information regarding how benchmarks for student performance are established. Rep. Frevert commented that she will contact Ms. Greta regarding a clarification for Item 1.

Special review Sen. Bartz requested a review of Iowa Code section 279.10, which establishes the start of the school year and authorizes the department to grant waivers of the date. Ms. Greta explained that districts must hold a public hearing and determine that the statutory start date would have a significant negative educational impact. Ms. Greta indicated that because the department does not have the resources to analyze each waiver request, the department grants almost all requests. There was discussion about whether it is appropriate for the committee to review a statute and about whether the waiver process is working as intended by the legislature. Sen. Bartz maintained that the department should define “significant negative educational impact” in its rules.

ENVIRONMENTAL PROTECTION COMMISSION Russ Tell, Wendy Hieb, Randy Clark and Theresa Stiner represented the department. The committee welcomed Commission Chair Charlotte Hubbell and Commissioner Susan Heathcoat, who were also in attendance.

ARC 8520B No questions on amendments to ch 64 concerning wastewater discharge from well drilling sites.

ARC 8517B Mr. Clark outlined the changes made to rule 65.10, hearing procedures regarding preliminary decisions on construction permit applications, as a result of public comment. Sen. Kibbie expressed appreciation for EPC's response to public concerns.

ARC 8518B No questions on amendments to chs 123 and 211 concerning satellite facilities and regional collection centers.

PUBLIC HEALTH DEPARTMENT Barb Nervig, Ken Sharp, and Rita Gergely represented the department. Other interested parties included Paula Dierenfeld on behalf of the Iowa Geothermal Association and Brian Johnson on behalf of the Mechanical Contractors Association of Iowa.

ARC 8528B No questions on amendments to ch 27 concerning the administrative and regulatory authority of the plumbing and mechanical systems board.

ARC 8529B No action on amendments to ch 28, plumbing and mechanical systems board—licensure fees. These amendments include a 30 percent reduction for multiple licenses purchased. Committee questions pertained to special restricted licenses; contractor licenses; and costs for individual licenses, business licenses, continuing education and license renewals.

ARC 8530B Amendments to ch 29, plumbing and mechanical systems board—application, licensure, and examination, generated public comment in regard to geothermal licensure. Because of conflicting public comments regarding the geothermal license and because of the potential for clarifying legislation, the board opted to delete the geothermal provisions from this rule making. Ms. Dierenfeld commented that 2009 legislation required the board to adopt rules for licensure of geothermal system installers, and the association supported the proposed rules. Mr. Johnson indicated that the mechanical contractors association wants to ensure that geothermal system installers work in conjunction with, but not in competition with, other licensees.

ARC 8531B No questions on ch 32 regarding licensee discipline.

ARC 8532B No questions on ch 34 concerning complaints and investigations.

ARC 8533B No questions on ch 35 in regard to reciprocity and licensure of nonresidents.

ARC 8534B No questions on ch 36, petitions for rule making.

ARC 8501B No questions on amendments to ch 69, lead hazard notification process.

ARC 8502B No action on amendments to ch 70, lead-based paint activities. Ms. Nervig outlined comments received and changes made. Discussion related to training and certification of lead-safe renovators and costs of training programs.

ARC 8526B No questions on 127.7(2)“e” regarding county medical examiner investigators.

HUMAN SERVICES DEPARTMENT Nancy Freudenberg and Ann Wiebers represented the department.

ARC 8500B No action on amendments to streamline the application process for FIP, food assistance and Medicaid.

ARC 8535B No questions on proposed 65.28 pertaining to food assistance work requirements.

ARC 8503B No questions on amendments to ch 75 concerning adoption assistance and the HIPP program.

Human Services Department (continued)

- ARC 8552B No action on amendments to 75.11(2)“e” and “i” regarding documentation of citizenship and identity. Ms. Freudenberg advised Sen. Bartz that payments for Medicaid services to ineligible applicants are collected by the department of inspections and appeals.
- ARC 8538B No questions on proposed amendments to ch 78 regarding exceptions to policy that are routinely approved.
- ARC 8504B No action on 78.12 regarding remedial services.
- ARC 8505B No action on amendments to ch 92, citizenship and documentation requirements for the IowaCare program.
- ARC 8527B No questions on proposed amendments to ch 167 regarding the Iowa juvenile home and costs eligible for reimbursement.
- ARC 8506B No questions on amendments to ch 170, child care assistance.
- ARC 8536B No questions on proposed amendments to ch 187 pertaining to eligibility for aftercare services and the PAL program.
- ARC 8537B No questions on proposed 202.11(7) regarding the independent living program for youth leaving foster care.
- Special review No questions on amendment to 79.1(2), the reimbursement rate for family planning clinics.

PROFESSIONAL LICENSURE DIVISION Eileen Gloor represented the division. Ella Mae Baird and Jack Morlan represented the board of cosmetology arts and sciences. Other interested parties included Kent Hartwig on behalf of Iowa schools of cosmetology.

- ARC 8515B Ms. Baird explained the amendments affecting cosmetology arts and sciences. Mr. Hartwig asked the committee to delay Item 7 which requires cosmetology schools to have two instructors present at all times. Mr. Morlan explained that the board believes two instructors are necessary for proper supervision of the students. Ms. Gloor provided examples of instances in which a single instructor would be unable to supervise students involved in different activities.
- Motion to delay Rep. Upmeyer moved a 70-day delay on Item 7 of ARC 8515B.
- Motion carried The motion carried with seven members voting “Aye,” one member voting “Nay,” and two members absent.

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM Donna Mueller represented IPERS.

- ARC 8477B Sen. Bartz requested a review of this Notice of Intended Action, which was published in the January 13, 2010, Iowa Administrative Bulletin. Sen. Bartz expressed concern about amendments proposed in response to the Iowa Supreme Court decision regarding same gender spouses. Ms. Mueller responded that these amendments conform to federal tax provisions and state law and maintain IPERS trust fund tax qualification. Sen. Bartz asked that the rules be on the agenda for the April meeting.
- Committee business** The minutes of the February 2010 meeting were approved. The next meeting was scheduled for Tuesday, April 13, 2010.
- Adjourned The meeting was adjourned at 1 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair Marcella Frevert

Vice Chair Wally Horn